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#### **Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General**

#### Technical assistance and capacity-building

### **Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights**

#### **Report of the Secretary-General\***

#### *Summary*

The present report is submitted pursuant to Human Rights Council resolution 24/29, in which the Council requested the Secretary-General to report to the Council at its thirtieth session on the role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights.

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\* Late submission



## I. Introduction

1. The present report is submitted to the Human Rights Council pursuant to Council resolution 24/29. It describes the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Cambodia from 1 June 2014 to 30 June 2015 and follows up on the previous report submitted to the Council (A/HRC/27/43).

2. Originally mandated by the Commission on Human Rights resolution 1993/6, the work of OHCHR in Cambodia is guided by a biennial resolution of the Human Rights Council (24/29), a biennial Memorandum of Understanding signed with the Government of Cambodia,<sup>1</sup> and the global mandate of the High Commissioner as set out by the General Assembly in its resolution 48/141. OHCHR looks forward to initiating discussions with the Government on the renewal of its mandate.

3. The period under review opened with the Government and opposition still at a political stalemate. The opposition Cambodia National Rescue Party refused to take the seats that it had won in the National Assembly in the election held in 2013, the official results of which it continued to contest. The Government had prohibited large-scale demonstrations. In July 2014, the opposition abandoned its demand for an independent investigation in to the election or for a re-election on the condition that the Government committed to key reforms, particularly electoral reform. The opposition subsequently occupied its seats in the National Assembly in August 2014, giving rise to a new bipartisan political climate characterized by a "culture of dialogue" between the two parties. A national electoral committee, with equal representation of both parties and one independent member, was reconstituted.

4. The human rights context normalized in the first half of 2015 following the easing of political tensions. Small-scale protests were tolerated, although were not entirely free of shows of force. Housing and land disputes continued to be the root cause of most protests and human rights violations in the country, such as infringements on the rights to freedom of expression, association, peaceful assembly and movement, and violations of economic, social and cultural rights, including of indigenous peoples. New pronouncements by the Government that it would review and, if deemed necessary, revoke some economic land concessions, however, gave reason for hope that some of these long-standing disputes would finally be resolved.

5. OHCHR followed closely the above-mentioned incidents, including housing and land disputes, ensuing protests and the responses to them involving the use of force, blockage of peaceful assemblies and resulting arrests, and violations of the rights of indigenous peoples. OHCHR sought remedial actions from duty bearers, monitored trials and the treatment of those held in detention, and advocated for the establishment or strengthening of national mechanisms and institutions for the protection of human rights. In partnership with the Ministry of the Interior and with the participation of local authorities, security forces, communities and civil society organizations, OHCHR organized a number of dialogues at the sub-national level in localities subjected to a high degree of social tension, with the aim of improving communication on the causes of conflict and of finding solutions thereto.

<sup>1</sup> The current Memorandum of Understanding covers the period from 1 January 2014 to 31 December 2015.

6. The economy was only slightly dampened by the turbulence, particularly in the garment sector, recording a strong overall 7 per cent annual growth rate in 2014 and projected to grow by 7.3 per cent in 2015. According to the new official poverty threshold introduced by the Government in 2013 (based on the cost of purchasing food equivalent to 2,200 kcal), the poverty rate fell from 47.8 per cent in 2007 to 18.9 per cent in 2012. Cambodia is on track to meet the Millennium Development Goal of halving poverty by the end of 2015<sup>2</sup> and is likely to graduate to lower middle-income country status by 2020. This achievement is precarious. The overall poverty rate encompasses sharp regional differences; some 90 per cent of the poor live in rural areas, and the margin by which most have graduated from poverty is slight. According to the World Bank Economic Update 2015, almost 3 million people are poor and more than 8.1 million are near poor.

7. The National Strategic Development Plan for the period 2014-2018, the implementation of which was estimated to cost \$26.58 billion, was adopted in June 2014. Together with the governmental Rectangular Strategy phase III, they constitute the policy framework for national development in the mid-term future, which includes commitments to improve the governance framework for development.

8. Some public administration reforms have advanced, particularly the public finance management reform, which allowed for civil servants in a number of ministries to be paid by direct bank transfer rather than in cash. When expanded to all civil servants, the change will mark a significant advance in the fight against corruption by reducing the number of "ghost" workers. Corruption in all its forms remains widespread, however; according to one study,<sup>3</sup> Cambodians perceive the judiciary as the most corrupt State institution.

9. The lack of independence in the judiciary remains an obstacle to the protection of human rights. The Government has been pursuing reforms in court administration, which OHCHR is working to reinforce, in cooperation with the Government, by providing members of the legal profession with several concrete tools, designed in particular to assist judges in taking decisions on pretrial detention, improving case management by courts and assisting judges in their adjudication of criminal cases. One significant achievement has been the further reduction in cases awaiting appeal for an excessively lengthy period of time.

10. OHCHR continued to build the capacity of national counterparts. It reached out to local authorities about the Peaceful Demonstration Law and the use of force; with prison officials on the rights-based approach to prison management; and with government and private sector actors on business and human rights. Significant progress was made toward systematizing human rights training for law professionals in compulsory general training programmes for lawyers, judges and prosecutors, and in specialized training on the new pretrial detention form and a case management database, expanded to five courts by OHCHR. In addition, OHCHR considerably extended its outreach to the general public by means of a strengthened communications strategy, based on new tools such as a dynamic website and social media, as well as traditional publications, posters, print media and a radio programme. The OHCHR programme in Cambodia is informed by the conclusions and recommendations of United Nations treaty bodies, in particular those made by the Human Rights Committee in March 2015 on the State's implementation of the International Covenant on Civil and Political Rights (see CCPR/C/KHM/CO/2) at the universal periodic

<sup>2</sup> Asian Development Bank, Cambodia: Country Poverty Analysis 2014 **Error! Hyperlink reference not valid.**

<sup>3</sup> Transparency International Cambodia, "Corruption and Cambodia's Governance System: The Need for Reform", National Integrity System Assessment 2014.

review of Cambodia in January 2014 (see A/HRC/26/16). In the case of both reviews, the Office delivered considerable capacity-building for the Government and civil society.

## II. Widening the democratic space

11. At the start of the period under review, large-scale demonstrations were held following in January 2014 a violent crackdown, on striking workers, which led to six fatalities. Political tensions abated when a deal was struck between the Government and the opposition in July. The Cambodia National Rescue Party subsequently concentrated on debating issues on current affairs in Parliament rather than on the streets. Demonstrations did, however, continue in various parts of the country, particularly on land and housing rights disputes, and were monitored by OHCHR.

12. OHCHR took initiatives to facilitate dialogue between citizens and the Government aimed at improving the promotion and protection of human rights. In December 2014, following several years of engagement, the Office embarked on a new programme of "provincial dialogues", in partnership with the Ministry of the Interior. The dialogues were aimed at improving local authorities' understanding of the expectations of the central Government for them, to better manage relations with the communities under their responsibility, in particular to resolve disputes at their level. In the framework of the dialogues, the Office and the Ministry of the Interior convened provincial and district-level governors, police and gendarmerie chiefs, commune chiefs and district and commune councillors in jointly selected provinces at a one-day forum, held together with members of local communities and civil society organizations. A representative of the Ministry outlined the Government's decentralization and deconcentration policy, the provincial governor explained the available dispute resolution procedures and mechanisms, and community members outlined their grievances. The aim was to find an agreement on resolving the disputes through peaceful dialogue.

13. In December 2014, OHCHR and the Ministry of the Interior co-organized the first provincial dialogue, held in Mondulkiri, home to the majority of Phnong indigenous communities, some of whom have been involved in long-standing land disputes, as well as the site of numerous complaints regarding the allocation of social land concessions. The event was attended by 123 participants, including 14 women. A second dialogue was held in Oddar Meanchey – another province with a large number of land and forestry disputes – in March 2015, with 138 participants, of whom 11 were women. Both dialogues allowed for extensive discussions on a number of grievances, mostly related to land issues. Community representatives welcomed the opportunity to raise their concerns directly with local authorities, which with the representatives of the Ministry of the Interior were given the opportunity to explain their mandates, regulations and scope for intervention. OHCHR offered to conduct a similar exercise at the district level in the future to allow specific disputes to be examined in greater depth.

14. OHCHR continued to build the capacity of subnational authorities to implement the Peaceful Demonstration Law in accordance with international human rights law. Fourteen briefings for law enforcement officers in five north-eastern provinces of Cambodia were delivered jointly by the OHCHR regional office in Battambang and the relevant offices of provincial prosecutors. In May 2015, also in conjunction with the provincial prosecutor's office, OHCHR briefed land activists and police officials in Pursat province on the Land Law and the Peaceful Demonstration Law. Such joint activities are actively pursued in the provinces most affected by confrontational protests. The responses of local authorities have varied.

15. OHCHR also continued to provide general and specialized training for civil society organizations. Three sessions were organized in 2015, focusing on basic human rights, freedom of expression, and civil and political rights.

16. On numerous occasions, OHCHR worked closely with civil society organizations to address specific situations, for instance in the aftermath of protests. It raised a number of cases involving human rights defenders, community activists and journalists with national and local authorities. OHCHR opened or followed up on approximately 90 cases on issues ranging from arbitrary detention, harassment and threats against human rights defenders and violations of fundamental freedoms, as well as forced evictions and high-profile land cases. In some land cases, OHCHR facilitated community meetings and the preparation of documents to be filed with provincial courts. In many cases, OHCHR followed up with the relevant authorities, visited human rights defenders in police stations and prisons, helped them to find a lawyer and monitored their trials with the aim of ensuring that justice would be served.

17. Following the resumption of work by a fully constituted National Assembly in August 2014, several laws with significant human rights implications were introduced or re-introduced before the Parliament, in relation to which OHCHR had sought to promote an inclusive participatory consultative process in conformity with the right to take part in the conduct of public affairs.<sup>4</sup> In late February 2015, the National Assembly received drafts of a law on the election of members of the National Assembly and of another on the National Election Committee, the contents of which had been agreed upon between the two parties. Within two weeks, the draft laws were publicly released, a half-day consultation was held, and the texts were adopted. The speed and closed nature of the adoption process gave little time for any meaningful analysis or debate with civil society organizations, political parties not represented in the National Assembly, academics and other independent voices.

18. After the period under review, several other draft laws with important implications for human rights were reportedly in various stages of preparation following a similar pattern of opacity. A draft law on associations and non-governmental organizations, the development of which had been put on hold since 2011, resurfaced in April 2015, when the Prime Minister declared that the Government would resume work on it. The latest draft was not shared by the Government, prompting civil society organizations to launch a "Stop and Consult" campaign. The draft was approved by the Council of Ministers, submitted to the National Assembly in June, and publicly released only three weeks before the National Assembly proceeded to adopt it on 13 July, after just a half-day public consultation, on 8 July.

19. The draft trade union law, developed by the Ministry of Labour and Vocational Training, was the subject of several rounds of consultations with trade unions, employers and the International Labour Organization through to 2011. In 2014, discussions on the draft law were resumed: a tripartite discussion was held in May; in October, the Government declared that it intended to adopt the law. At the time of finalization of the present report, the Government still had not shared the latest draft, which was reportedly nearly ready for submission to the Council of Ministers, prompting labour rights activists to join the latest protests against both the law on associations and non-governmental organizations and the trade union law. No official information is available on the status of the draft law on cybercrimes, which was reportedly revived in 2014 amid concerns that the draft could restrict the right to freedom of expression on the Internet.

<sup>4</sup> International Covenant on Civil and Political Rights, art. 25.

20. As noted above, OHCHR advocates for and supports meaningful consultations for the preparation of all draft laws, particularly those with important implications for human rights. OHCHR requested the ministries concerned to provide an official copy of the drafts under their respective responsibility in order to enable OHCHR to advise the Government on draft legislation that have implications for the protection of human rights. OHCHR, the United Nations Population Fund, the United Nations Children's Fund (UNICEF) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) jointly authored an opinion piece published in national newspapers for an inclusive process of consultation regarding the law on associations and non-governmental organizations.<sup>5</sup>

21. Some draft laws have been prepared in a more consultative manner. OHCHR provides inputs as a member of the Technical Working Group established to support the preparation of a draft law on access to information, which is co-chaired by the Ministry of Information and the United Nations Educational, Scientific and Cultural Organization (UNESCO). The working group includes other relevant State institutions and civil society organizations, which to date has allowed for greater transparency and in-depth discussions on the proposals of the Ministry and substantive inputs from a broad spectrum of society. Similarly, during the period under review, OHCHR participated in a working group regularly convened by the Ministry of the Environment to prepare a draft law on environmental impact assessments. The process was also inclusive, resulting in an improved text. The relevant draft law is near finalization.

### III. Promoting the rule of law

22. Strengthening national capacity continues to be an important component of OHCHR work in the area of judicial reform. Following the organization in 2013 of a pilot course, comprising eight sessions, on fair trial rights for trainee lawyers at the Lawyers Training Centre, OHCHR, the Raoul Wallenberg Institute of Human Rights and Humanitarian Law and the Bar Association of the Kingdom of Cambodia agreed to develop a full 30-hour human rights course. The proposal was approved by the Bar Council in June 2014, and the course is now compulsory for all trainee lawyers.

23. The first course was delivered by OHCHR, the Raoul Wallenberg Institute and the Lawyers Training Centre to trainee lawyers in November 2014, and included specific sessions on fair trial rights with speakers from the Extraordinary Chambers in the Courts of Cambodia. In addition to the course curriculum, OHCHR and the Raoul Wallenberg Institute drafted a teacher training manual for prospective lecturers for the course. OHCHR and the Institute held a teacher training course in June 2015 to encourage the Lawyers Training Centre to consider jointly delivering the new human rights module and incorporating human rights components into its other courses. The course aims at ensuring that future lawyers will possess the knowledge necessary to protect fair trial rights.

24. OHCHR also embarked on discussions with the Royal Academy of Judicial Professions to integrate an equivalent programme in its own training for future judges and prosecutors. The President of the Academy agreed for OHCHR and the Raoul Wallenberg Institute to organize a human rights course for the next promotion of trainee judges to be recruited in the summer of 2015. In the meantime, at his suggestion, a course for in-service judges and prosecutors from all courts was held in April 2015.

25. The objective of the above-mentioned inaugural training was to improve participants' capacity to apply international human rights standards when drafting judgements and

<sup>5</sup> "The importance of trust", *Phnom Penh Post*, 12 May 2015.

submissions. The programme involved 27 judges and prosecutors from 12 provinces, the Court of Appeal and the Supreme Court. It included a study tour of the Extraordinary Chambers in the Courts of Cambodia and many practical discussions and exercises, covering, *inter alia*, fair trial rights, and the application of international human rights law in general and in respect of the Criminal Procedure Code. OHCHR developed comprehensive course materials for further use by the Ministry of Justice and its training institutions. According to their evaluation of the workshop, the participants found the training to be relevant and useful. The Ministry expressed interest in having the programme become an integral part of judicial education in Cambodia. Discussions are ongoing between the Ministry and the Royal Academy of Judicial Professions on the modalities and responsibilities.

26. OHCHR has continued to strengthen the tools for legal professionals to better ensure the delivery of justice. One tool that has proven to be useful for the improved application of criminal law has been the Annotated Code of Criminal Procedure, which was published by OHCHR in March 2014. The need to revise the publication was reinforced at a meeting held in October 2014 among national and international actors in Cambodia active or interested in promoting the legacy of the Extraordinary Chambers in the Courts of Cambodia – a meeting organized regularly by OHCHR to update each other on the activities of each participating organization – where a number of participants considered that it should be updated in view of relevant new jurisprudence. OHCHR thus began to update the draft, based on 319 decisions, interlocutory memoranda and orders issued by the Extraordinary Chambers. In May 2015, it held an expert workshop to review the updated draft. The experts validated the annotations; the revised annotated code was to be finalized in Khmer and English in July 2015.

27. Another important tool is a case management database for the courts of first instance. The Ministry of Justice is proceeding in the implementation of the Law on the Organization of the Court Organs and Law on the Role of Judges and Prosecutors of 2014. In 2015, the Ministry began to develop detailed work plans to establish new administrative units within each court, which would allow court presidents to concentrate on their adjudication functions. The staffing levels in the courts were being reinforced to that end. Once they are fully functional, the restructuring is expected to improve the efficiency of the justice system, particularly given that the new units in the largest courts will be equipped with a case management database.

28. The database was developed by the Program on Rights and Justice of the East-West Management Institute, which worked to improve court administration and case management in selected courts. Following the closure of the Program at the end of 2014, OHCHR assumed the task of expanding the database, which had been installed in the Phnom Penh Municipal Court. The database facilitates the retrieval of information on individual cases and of aggregated data used to analyse the general functioning of each court. From March 2015, OHCHR conducted assessment missions, in partnership with the Ministry of Justice, in five courts of first instance selected for their relatively large caseload. At each court, OHCHR installed the database and trained court officials on its use. Following consultations with the Ministry of Justice and UNICEF, OHCHR supported the development of a new component to track child justice data. In 2015, the Ministry of Justice provided a computer and server in the five courts, while UNICEF also contributed an additional computer and scanner for each of the courts to encourage the use of the database. To ensure proper maintenance of the database, a Ministry official is being coached by an information-technology specialist contracted by OHCHR.

29. OHCHR aims at extending the installation of the database to all provincial courts and ultimately to link them nationally, thereby allowing for reliable case management nationwide. It is hoped that lesser reliance on the transfer of paper files and more effective

tracking of the whereabouts of original paper documentation will allow courts to expedite the processing of cases more efficiently. Granting access to final court decisions to other parts of the justice system, particularly the police and prisons, should also help to address blockages in the system that result in excessive or arbitrary detention.

30. The third tool developed by OHCHR relates to the reform of the pretrial detention process. A new pretrial detention form was developed by the Ministry of Justice with the support of OHCHR, and was adopted in January 2014. The form was approved by the Ministry of Justice in January 2014, forwarded to all courts of first instance and, in March 2014, disseminated to judges, prosecutors and lawyers at a national conference supported by OHCHR. When filling out the form, judges are, for the first time, asked to set out their legal reasoning for ordering persons accused of crimes to be held before trial.

31. Approximately one year after the pretrial detention form was approved, OHCHR and the Ministry of Justice decided to assess its degree of use and to determine how to promote it further. They therefore conducted, in the first half of 2015, a survey on the use of the form in 10 selected provincial courts of first instance. The survey, completed in May, revealed that its use was not uniform. Approximately 60 per cent of the judges interviewed responded that they used the new form at least from time to time, while the remaining 40 per cent continued to use the old form. Those that had participated in the conference in March 2014 were more likely to use the form. Activities to promote the form were undertaken in cooperation with the Ministry, including follow-up training for judges, which began in Battambang province in June 2015.

32. In order to enable lawyers to make use of the possibilities of the pretrial detention form, in June 2015, OHCHR organized a briefing, attended by 28 practising lawyers, including 12 women, on the process of requesting the release of accused persons from pretrial detention. The discussions held at the briefing focused on experiences of and insights into combating arbitrary detention pending trial. OHCHR also helped a number of lawyers to strengthen their defence strategies by adopting international human rights standards. As a result, lawyers now increasingly invoke provisions of the International Covenant on Civil and Political Rights (in particular article 14) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in court.

33. To assist women members of the judicial profession to contribute to improving the performance of the justice sector, the Ministry of Justice, OHCHR and UN-Women organized, in November 2014, the first meeting of women judges and prosecutors in Cambodia. The participants discussed the challenges they faced as women in their profession and the substantive points of law on which they shared questions. They decided to establish an informal network for information exchange and mutual support.

34. With a view to improving access to legal aid by individuals whose rights were at risk, OHCHR provided grants to specialized bodies that provide such services. Thus, a grant to the Bar Association of the Kingdom of Cambodia, running from December 2014 to December 2015, was given to provide legal aid in 53 cases officially pending appeal for lengthy periods. The cases, identified by OHCHR and the prison registry officers in Correctional Centres 1 and 2, were found not to be actually pending appeal but rather to have been tried by the Court of Appeal. The cases were, however, treated as such because the verdict had not been shared with the prisons, which denied the defendants access to certain important procedures to which they were entitled at that stage in the judicial process, such as an application for sentence reduction. OHCHR also extended a grant to the non-governmental organization International Bridges to Justice in Cambodia, to allow it to provide legal aid in 222 appeal cases identified by OHCHR in which the rights of the accused appeared not to have been fully respected. As a result of the ongoing partnership among OHCHR, the Court of Appeal and legal aid organizations, the backlog of appeal cases that were pending for more than 10 years was completely cleared in 2014, while the

backlog of appeals pending for more than five years has been considerably reduced, especially in Phnom Penh. Work has also progressed on appeals pending for more than four years. OHCHR, with the cooperation of the relevant judges and prosecutors, was moreover able to secure the release of eight prisoners found to be held in arbitrary detention.

35. OHCHR sought to raise the level of awareness of international norms and standards on the prohibition of torture and ill-treatment by co-organizing 14 briefings, held from January to June 2015, for law enforcement personnel at the provincial and district levels with the offices of the provincial Chief Prosecutor in five north-eastern provinces. At each briefing, visits were conducted to provincial and district police stations, where the processes of police custody and registry were reviewed. The briefings were also held on rights upon arrest and the use of force and policing during demonstrations. In all, approximately 640 participants from the police, gendarmerie and civilian apparatus, including 49 women, participated in these lively discussions, which helped to dispel many common misunderstandings about the issues of torture and ill-treatment, the processes of police custody and registry, rights upon arrest, the use of force and policing during demonstrations.

36. No progress was achieved during the period under review towards the establishment of an independent national preventive mechanism against torture, in accordance with the Optional Protocol to the Convention against Torture, to which Cambodia is a party. Following past advocacy by OHCHR, as well as by the Subcommittee on the Prevention of Torture during its visit in December 2013, the Government of Cambodia acknowledged the shortcomings of the current governmental mechanism, but did not actually commit to establishing an national preventive mechanism compliant with the Optional Protocol. This position was reaffirmed by the Government when, in June 2014, in its response to the recommendations made during from its second universal periodic review, it noted - rather than accepted - nearly all the recommendations pertaining to the mechanism.

37. OHCHR continued to serve as the donor partner facilitator of the Technical Working Group on Legal and Judicial Reform, one of 19 sectoral technical working groups by which the Government and donor partners coordinate international assistance. Following the adoption of the three fundamental laws on the judiciary (the Law on the Statute of Judges and Prosecutors, the Law on the Organization of the Court Organs and the Law on the Organization and Functioning of the Supreme Council of Magistracy) in May 2014, OHCHR worked closely with the Ministry of Justice, which serves as the governmental Chair of the Technical Working Group, to establish joint monitoring indicators on judicial reform that set out quantifiable measures for improvement in certain key areas.

#### **IV. Protecting economic and social rights**

38. The Economic and Social Rights Programme of OHCHR in Cambodia continued to focus primarily on land and housing rights issues, with the understanding that adequate housing is a precondition for the enjoyment of many other economic and social rights, including the rights to work, health and education. Through the Programme, OHCHR works to promote and protect the rights to adequate housing and to an adequate standard of living, to prevent forced evictions and to promote security of tenure and a better understanding of the role of business in respecting human rights.

39. The Government's land titling programmes have advanced steadily. According to government figures, as at December 2014, approximately 3,840,000 land titles had been delivered under ongoing processes of systematic land registration (2.62 million titles), sporadic land registration (610,000 titles) and Directive No. 001 campaign (606,661 titles) (see A/HRC/27/43, para. 34). With regard to the number of titles awarded, the Directive No.

001 land titling campaign has achieved remarkable results since 2012. At the end of the period under review, the Government estimated that land titles had been provided for 55 per cent of the country's estimated 7 million parcels of land.

40. At the same time, OHCHR registered forms of adverse impact of the land titling process on indigenous and other communities who claim to have lost land as a result of inconsistent implementation of government policies. During the period under review, OHCHR monitored 70 ongoing and unresolved land disputes among affected communities, authorities and businesses in both rural and urban areas, and six new cases. Of the 70 disputes, 28 were related to economic land concessions and other land concessions granted by the Government, while 42 related to other land transactions. OHCHR activities in this area included field visits, the facilitation of dialogue among the parties in dispute, trial monitoring, and providing communities and civil society organizations with legal and procedural advice.

41. In 18 August 2014, the Government created an interministerial commission to inspect, demarcate and assess economic and concessions, mandated to examine economic land concessions and to revoke contracts where companies failed to comply with the conditions and terms set forth in their contracts. According to government data, as at April 2015, the commission had reviewed 230 concession projects, of which 117 concessions were under the jurisdiction of the Ministry of Agriculture, Forestry and Fisheries and 113 under the jurisdiction of the Ministry of the Environment. The commission revoked 34 concessions, readjusted the boundaries of six, and placed 26 companies under review. Five business enterprises voluntarily returned concession land to the Government. Despite this positive step, access to information and a lack of transparency and accountability in the management of land concessions still posed significant problems. In addition to its monitoring activities, OHCHR continued to provide support for a non-governmental open-data source that posts on one website information on land concessions by province and by company, and includes briefings on relevant thematic issues.

42. OHCHR expanded its focus on business and human rights, working directly with national and subnational authorities, civil society organizations, community representatives and business actors to increase their understanding of the Guiding Principles on Business and Human Rights and their application in Cambodia. In partnership with non-governmental organizations, OHCHR organized and delivered presentations at 12 seminars and consultations, attended by almost 1,000 representatives of government agencies, private businesses, non-governmental organizations and indigenous and other communities throughout Cambodia. OHCHR supported capacity-building activities aimed at improving access of civil society organizations to non-judicial mechanisms for addressing business-related human rights impact at the operational, national and international levels.

43. OHCHR continued to work with the Ministry of Land Management, Urban Construction and Planning, local governments and civil society organizations to support efforts by indigenous peoples to apply for collective land titles, and to provide legal aid to communities who have suffered from land rights violations. As at May 2015, 166 indigenous communities had begun the process of applying for communal land titles, 116 of which had been registered by the Ministry of Rural Development. As at June 2015, only eight communities had been successful in obtaining a communal land title. The application process remains complicated and expensive for those communities that do not receive substantial technical and financial assistance from civil society organizations. The dispute resolution mechanisms in place, including the courts, continued to handle indigenous and other land issues inconsistently, without transparency and with limited accountability. OHCHR contributed to advocacy to protect indigenous peoples' land rights and cultural and linguistic rights with the authorities and through the media.

44. On 11 May 2015, in response to an application for preservative relief, the Court of Appeal recognized for the first time in a Cambodian court the legality and legitimacy of a communal land title and the co-ownership of land by a Phnong indigenous community in Mondulkiri Province, overturning a contrary verdict of the provincial court. OHCHR intends to assist in disseminating this landmark ruling widely, particularly in those provinces with large numbers of indigenous communities.

45. Through the Technical Working Group on Land, which is composed of representatives of the Government, development partners and civil society organizations active in the land sector, OHCHR continued actively to advocate for and to support compliance with international human rights standards in the design and implementation of policies and programmes on land, housing and natural resources.

46. OHCHR continued to contribute to the further development of the legal and policy framework regulating the land sector and the management of natural resources. As mentioned above, it participated in consultations on a bill on environmental impact assessments led by the Ministry of the Environment and provided written advice on the harmonization of the final draft with international human rights standards. A national housing policy that focuses on providing adequate housing and tenure security for poor and middle class families, long advocated for by OHCHR, was finally promulgated in June 2014.

47. OHCHR worked to improve women's participation in public processes and to promote women's rights to land, tenure security, adequate housing and inter-connected economic, social and cultural rights. In November 2014, OHCHR began to distribute a version in Khmer language of the OHCHR publication entitled "Women and the Right to Adequate Housing". In December, OHCHR organized a regional workshop on women human rights defenders working on land-related human rights issues, which convened participants from Cambodia, the Lao People's Democratic Republic, Myanmar, the Philippines and Thailand. Also in December, OHCHR organized, together with UN-Women, a consultation on women's right to adequate housing, attended by female housing rights activists and victims of forced evictions.

## V. Supporting prison reform

48. The General Department of Prisons of the Ministry of the Interior is the main partner in the OHCHR Prison Reform Support Programme in Cambodia. Through the Programme, OHCHR aims to support prison reform in accordance with international human rights norms and the State's constitutional guarantees.

49. OHCHR continued to collaborate with core trainers from the General Department of Prisons and the Police Academy of Cambodia to improve the quality of prison staff training. It organized two study visits for core prison staff trainers to five provincial prisons in June 2014 and April 2015. The prisons visited were selected to provide different perspectives to trainers, including from small to medium-sized prisons, with a population of between 250 to 500 prisoners. Through the visits, trainers obtained feedback from prison managers and former trainees on ways to improve future training programmes. In July and August 2014, OHCHR supported the participation of female trainers in the delivery of training to new recruits. In September, it partnered the General Department of Prisons and the Police Academy of Cambodia in organizing a four-day "training of trainers" workshop on a human rights-based approach to prison management. Based on an international handbook on the same subject, previously made available in Khmer by OHCHR, the workshop enabled the 21 trainers to review each chapter of the handbook in small groups to prepare lesson plans and to present them to their peers for feedback and improvement.

which prompted fruitful, substantive discussions. In October, OHCHR co-organized an end-of-year meeting for the joint General Department of Prisons/Police Academy of Cambodia training team to review progress and to plan for 2015.

50. OHCHR continued to promote the right of prisoners to the highest attainable standard of health through advocacy and support for secured hospital rooms for sick prisoners and improved living conditions in prison. With the cooperation of provincial health departments, non-governmental medical organizations and national and provincial prison authorities, secured rooms were prepared with OHCHR support in four referral hospitals, allowing sick prisoners to be treated without being chained or handcuffed.

51. OHCHR provided material support for additional window openings in a provincial prison to improve light and ventilation inside the cells, and to improve access to water and sanitation in three other prisons. It coordinated with partners the provision of supplies to assist with flood prevention and advocated for minimum prison construction standards in two new prisons in north-western provinces.

52. OHCHR and the General Department of Prisons finalized jointly the design of two educational posters on the rights of prisoners and on family visits, which were being printed at the end of the period under review. OHCHR continued to work closely with prison registry officers to review the lists of prisoners whose convictions were pending appeal or who, for any other reason, were not in possession of their final judgements. The Office supported follow-up with the courts and legal aid organizations to obtain such judgements so that those prisoners could be considered for release.

53. At the end of the period under review, 35 per cent of the prison population had been convicted but had not received their final verdict, either because it was pending appeal, the court had not drafted or shared the verdict with the prison, or the court documents had been lost in the system. In parallel to work on the court database (see para. 10 above), OHCHR reached an agreement with the General Department of Prisons to support efforts to improve the nationwide management of its prisoner files through the prison database, and thereby to reduce excessive pretrial detention, detention pending appeal or detention past the time of release. The current prison database lacks features that would allow the Department clearly to monitor time limits and the legality of detention. An information technology expert has been contracted by OHCHR to review the database, to design the necessary modules and functions, and to install and train registry staff in all prisons in Cambodia in the course of upcoming months.

54. OHCHR continued to monitor prisons and to intervene with the relevant authorities for remedial action in cases of human rights violations, including ill-treatment or excessive detention. It also continued to analyse the statistics on the prison population, disaggregated by gender and age, to support policy discussions.

## VI. Emerging issues: asylum seekers

55. Since October 2014, small groups of ethnic Jarai Montagnards<sup>6</sup> have been crossing over into the Cambodian province of Ratanakkiri from Viet Nam. Following a considerable

<sup>6</sup> The term "Montagnards" is a loose designation of some 30 tribes of "mountain people" in the central highlands of Viet Nam, composed of six distinct ethnic groups, including the Jarai. The area inhabited by the Jarai straddles Cambodia and Viet Nam; the Jarai on the Cambodian side are concentrated in the province of Ratanakkiri.

number of discussions, the Refugee Department of the Ministry of the Interior,<sup>7</sup> OHCHR and the Office of the United Nations High Commissioner for Refugees (UNHCR) retrieved, through a joint mission in December 2014, 13 Montagnards who had been hiding in the forests of Ratanakkiri. They were brought to the premises of the Refugee Department in Phnom Penh, where they were duly registered as asylum seekers. Their cases were examined in due course, after which they were granted refugee status by the Government in March 2015.

56. More small groups of Montagnards – mostly ethnic Jarai and a small number of ethnic Ede – have continued to cross over since January 2015. In January and February, the Ratanakkiri authorities deported 54 Montagnards, which led OHCHR and others to express concerns about refoulement, a measure that violates the Convention relating to the Status of Refugees to which Cambodia is a party. In April 2015, the border police in Ratanakkiri were reportedly reinforced by hundreds of soldiers to prevent further crossings of Montagnard asylum seekers into Cambodia. As at July 2015, the number of Montagnards who had reached Phnom Penh numbered more than 150, all of whom presented themselves to OHCHR or UNHCR, which systematically notified the Refugee Department for registration; registration was denied in every case. In addition, more than 100 Vietnamese Montagnards have crossed into Thailand to seek asylum from UNHCR, which is responsible for determining refugee status in Thailand.

57. In March 2015, representatives of UNHCR and the Governments of Cambodia and Viet Nam met to discuss the situation of the Montagnards. UNHCR was invited by Viet Nam to visit the Central Highlands to assess the situation there. A visit was conducted from 13 to 17 May 2015.

58. In September 2014, Cambodia signed a refugee relocation agreement with Australia whereby Cambodia would receive and settle refugees from Nauru. The first four refugees from Nauru arrived on 4 June 2015. The reception of the refugees provides an opportunity to reaffirm the procedure by which due process will be ensured and assistance provided to the entire refugee and asylum-seeker population in Cambodia, including the Montagnards. OHCHR and UNHCR have consistently advocated that all asylum seekers should be registered and accorded an individual assessment of their claims, in conformity with the State's obligations under the Convention relating to the Status of Refugees. Those recognized as refugees should be settled and provided with the assistance that such status entails.

## VII. Public information

59. In December 2014, OHCHR, in partnership with the Cambodian Center for Independent Media, launched a series of monthly radio programmes in Khmer in order to raise awareness and understanding about fundamental freedoms and issues relating to business and human rights. The aim of the initiative was to reach wide segments of the general population, particularly in the more remote areas of the country, to highlight key human rights issues and provide information on the mechanisms to address them. To date, representatives of the Ministry of Mines and Energy, the Ministry of Economy and Finance, the Ministry of Information, the governmental Cambodian Human Rights Committee, the

<sup>7</sup> The Refugee Office was established in 2009 under Sub decree 224, in accordance with which the Cambodian Government took over from UNHCR the responsibility to conduct refugee status determination and assumed its full obligations as a party to the 1951 Refugee Convention. In May 2014, it became the Refugee Department under the newly instated Department of Immigration.

Commission on Human Rights, Complaints and Investigation of the National Assembly, the Special Rapporteur on the situation of human rights in Cambodia and leading civil society representatives have participated in debates on various issues.

60. During the period under review, the dissemination of publications and other information materials by OHCHR increased in both English and Khmer. OHCHR Cambodia printed more than 40 titles in the two languages, including several OHCHR core publications in Khmer, such as the Civil Society Handbook and the Handbook for Parliamentarians. Its expanding work on business and human rights was supported by the publication of a Khmer/English version of a United Nations interpretive guide entitled "The Corporate Responsibility to Respect Human Rights", which the Office distributed to various chambers of commerce and businesses. OHCHR also distributed approximately 5,000 copies in Khmer and English of the Guiding Principles on Business and Human Rights, and 2,000 copies of the OHCHR picture book entitled "Protect, Respect, Remedy: A Guide on Business and Human Rights". OHCHR had translated in Khmer and disseminated the concluding observations of the Human Rights Committee adopted in March 2015 (CCPR/C/KHM/CO/2). It also produced and disseminated a thematically organized table of recommendations on Cambodia made by all international human rights mechanisms to facilitate their implementation.

61. OHCHR translated into Khmer four general comments of human rights treaty bodies: general comment No. 35 of the Human Rights Committee on liberty and security of person (CCPR/C/GC/35); general comments Nos. 1 and 2 of the Committee on the Rights of Persons with Disabilities on equal recognition before the law (CRPD/C/GC/1) and on accessibility (CRPD/C/GC/2); and general comment No. 2 of the Committee against Torture on the implementation of article 2 of the Convention against Torture by State parties (CAT/C/GC/2). To date, OHCHR has distributed more than 200,000 copies of publications and other information materials to government institutions, students, law professionals, journalists, United Nations entities, partner non-governmental organizations and the general public.

62. OHCHR continued its popular practice of opening its doors to the general public one day a week for members of the general public, who are thus given access to human rights materials of interest.

63. The Office commemorated key international days, including the 16 days of activism on violence against women, Human Rights Day, World Press Freedom Day (with UNESCO) and the International Day against Homophobia and Transphobia (with the Joint United Nations Programme on HIV/AIDS (UNAIDS) and UN-Women). OHCHR organized or participated in commemoration events, distributed promotional and informational material and contributed opinion pieces to increase awareness. On Human Rights Day 2014, OHCHR contributed to numerous activities organized by local and national authorities, development partners and civil society organizations, and organized an online quiz competition on human rights issues.

64. OHCHR maintains a bilingual website, which continues to be the only United Nations Internet presence in Khmer. The new dynamic website, completed during the period under review, is scheduled to be launched in July 2015. In addition, OHCHR strengthened its use of social media channels for information dissemination and developed a short film on its role and achievements in Cambodia.

## VIII. Supporting engagement with the international mechanisms

65. Following the twenty-sixth session of the Human Rights Council, in June 2014, when the Government presented its final position on universal periodic review

recommendations, OHCHR supported the governmental Cambodia Human Rights Committee in translating and publishing the report of the Working Group on the Universal Periodic Review (A/HRC/26/16). In November, the Committee and OHCHR convened a national workshop to disseminate the universal periodic review recommendations among relevant entities, including the Parliament, the United Nations country team, development partners and non-governmental organizations. During the workshop, the Committee led a process whereby specific government entities were identified for the implementation of each universal periodic review recommendation accepted by the Government. OHCHR finalized and published in English and Khmer a compilation of the recommendations accepted by Cambodia at the first and second cycles of the universal periodic review, aligning them with all relevant recommendations made by human rights treaty bodies and the Special Rapporteur on the situation of human rights in Cambodia as at July 2014. The compilation was circulated to government partners, United Nations entities and civil society organizations. In May 2015, OHCHR and the Cambodia Human Rights Action Committee, an umbrella non-governmental organization, co-organized a national workshop on the implementation of universal periodic review recommendations.

66. In January 2015, OHCHR supported the final visit by the outgoing Special Rapporteur on the situation of human rights in Cambodia, Surya P. Subedi. The Special Rapporteur focused on assessing the progress made in strengthening the independence of State institutions, with particular reference to legal and judicial reform.

67. During the period under review, OHCHR continued to promote the ratification of the International Convention on the Rights of All Migrant Workers and Members of Their Families, which the Government had agreed, in principle, to ratify at its second universal periodic review, in 2014. In March 2015, OHCHR and UN-Women co-organized a stakeholders' workshop with the Ministry of Labour and Vocational Training. Participants included recruitment agencies and civil society organizations working with Cambodian migrant workers. A working group, composed of representatives of the Ministry of Labour, immigration police from the Ministry of the Interior, the Ministry of Foreign Affairs and International Cooperation, the Ministry of Women's Affairs, UN-Women and OHCHR, met three times in May and June 2015 to review the challenges that might arise after the ratification of the Convention, and to examine domestic legislation and international human rights treaties binding on Cambodia that support ratification. This work will continue in the second half of 2015.

68. The implementation by Cambodia of the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict was reviewed by the Committee on the Rights of the Child in January 2015. The State's implementation of the International Covenant on Civil and Political Rights was reviewed in March, in preparation for which OHCHR delivered a number of training activities for groups of stakeholders. As mentioned above, several new publications translated and published in 2015 by OHCHR are products of the treaty bodies, in particular four general comments of particular relevance to Cambodia.